

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

CLAY CALDWELL,	)	
	)	
Plaintiff	)	
	)	
vs.	)	Civil Action No. 08-1465
	)	Judge Terrence F. McVerry/
DR. B. JIN,	)	Magistrate Judge Amy Reynolds Hay
	)	
Defendant	)	

**ORDER**

AND NOW, this 4<sup>th</sup> day of December, 2008, after the Plaintiff, Clay Caldwell, filed an action in the above-captioned case, and after a Report and Recommendation was filed by the United States Magistrate Judge giving the plaintiff until November 21, 2008 to file written objections thereto, and Plaintiff having filed objections to the report and recommendation which are without merit, and upon independent review of the record, and upon consideration of the Magistrate Judge's Report and Recommendation, which is adopted as the opinion of this Court,

IT IS HEREBY ORDERED that this case is dismissed without prejudice before service for failure to exhaust administrative remedies prior to filing the instant complaint.

IT IS FURTHER ORDERED that, pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, if the plaintiff desires to appeal from this Order he must do so within thirty (30) days by filing a notice of appeal as provided in Rule 3, Fed.R.App.P.

s/ Terrence F. McVerry

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TERRENCE F. McVERRY  
United States District Judge

cc: Honorable Amy Reynolds Hay  
United States Magistrate Judge

Clay Caldwell  
EM-2163  
S.C.I. at Greene  
175 Progress Drive  
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